

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Creekview of Hugo Association,

Case No. _____

Plaintiff,

**NOTICE OF REMOVAL OF ACTION
TO FEDERAL COURT**

vs.

Owners Insurance Company,

Defendant.

TO: THE CLERK OF THE ABOVE-ENTITLED COURT

PLEASE TAKE NOTICE that Defendant Owners Insurance Company (“Owners”), by and through its undersigned counsel, hereby removes this action pursuant to 28 U.S.C. § 1441 from the District Court of Washington County, Minnesota, Sixth Judicial District (“State Court Action”) to the United States District Court for the District of Minnesota. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 because there is complete diversity among the parties hereto and because the amount in controversy exceeds \$75,000. As grounds for removal, Owners respectfully states as follows:

GROUND FOR REMOVAL

1. On February 5, 2019 Plaintiff served this lawsuit seeking via Motion to Confirm Appraisal Award, Enter Judgment, and for Interests, Costs, and Fees. True and correct copies of all process and pleadings served upon Owners in the State Court Action

are attached hereto as **Exhibit A** (with certain additional redactions for account numbers), and are incorporated herein by reference.

2. As more fully set forth below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441 because Owners has satisfied the procedural requirements for removal and this Court has subject jurisdiction pursuant to 28 U.S.C. § 1332.

I. OWNERS HAS SATISFIED THE PROCEDURAL REQUIREMENTS FOR REMOVAL.

3. Plaintiff commenced this action by filing its Motion on February 5, 2019. Because this Notice of Removal is being filed within 30 days of the date of service of that Motion on Owners, removal is timely under 28 U.S.C. § 1446(b).

4. Owners is the only Defendant to the State Court Action, and, therefore, all properly joined and served Defendants consent to this removal.

5. Pursuant to 28 U.S.C. § 1441(a) and 1446(a), venue is proper in the District of Minnesota, because the State Court Action was pending in the District Court of Washington County, Minnesota, and this Court is therefore the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a); 28 U.S.C. § 93(c).

6. No further proceedings have been had in this action, however, out of an abundance of caution Owners will file, later on this same date, papers opposing Plaintiff’s Motion in the State Court Action, which are due on the same date as this filing. It does so with no intent to waive its right to removal, but to preserve the status quo in the State Court Action and avoid the possibility of an entry of default.

7. No previous application has been made for the relief requested herein.

8. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Owners are attached hereto collectively as **Exhibit A**.

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Plaintiff's counsel. A copy of this Notice of Removal is being filed with the Clerk of the District Court for Washington County, Minnesota.

II. REMOVAL IS PROPER BECAUSE THE COURT HAS SUBJECT MATTER JURISDICTION PURSUANT TO 28 U.S.C. § 1332 AND 1441(b).

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because this is a civil action between citizens of different states in which the amount in controversy exceeds the sum of \$75,000, exclusive of costs and interest.

A. There is Complete Diversity of Citizenship.

11. Plaintiff is a Common Interest Community and non-profit organization, organized under the laws of the State of Minnesota. See **Exhibit B**, attached hereto.

12. Now, and at the time of commencement of this action, Owners has been organized in Ohio, and has had its principal place of business in Lansing, Michigan and, therefore, is a citizen of Ohio and Michigan for the purposes of determining diversity jurisdiction pursuant to 28 U.S.C. § 1332(c)(1).

13. Accordingly, there is complete diversity between the Plaintiff and Defendant under 28 U.S.C. § 1332(a) because Owners is not a citizen of the same state in which Plaintiff is a citizen.

14. In addition, no Defendant is a citizen of the State of Minnesota.

B. The Amount in Controversy Requirement Is Satisfied.

15. In its Motion, Plaintiff demands a judgment in excess of \$1,400,000, immediate payment of a sum in excess of \$370,000, and attorneys' fees, and costs and disbursements incurred in an amount over \$200,000.

16. Therefore, because Plaintiff is not a citizen of the same state as Owners and because the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000, this action may be removed to this Court on diversity grounds pursuant to 28 U.S.C. § 1332 and 1441(a).

WHEREFORE, Defendant Owners respectfully gives notice that this action is hereby removed from the District Court of Washington County, Minnesota, to the United States District Court for the District of Minnesota.

Dated this 27th day of February, 2019.

s/ Brock P. Alton

Brock P. Alton #0388335

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